

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

TELEBRANDS CORP.,

Plaintiff,

v.

AS SEEN ON TV, INC., TV GOODS, INC., BOB
DECECCO, RON RULE, XYZ CORPORATIONS 1-
10, and JANE AND JOHN DOES 1-10,

Defendants.

Civil Action No. 16-cv-06610-LAK

DEFENDANT RON RULE'S RESPONSE TO ORDER TO SHOW CAUSE

Dated: September 26, 2016

BURSOR & FISHER, P.A.

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Defendant Ron Rule respectfully submits this response to the Order To Show Cause For Expedited Discovery In Aid Of Preliminary Injunction (Doc. 12).

Plaintiff's motion for expedited discovery should be denied because this Court lacks jurisdiction and also because venue is improper in this District under 28 U.S.C.

§ 1391. Plaintiff's complaint alleges that "Plaintiff is a New Jersey citizen and all Defendants are Florida citizens." None of the parties is a citizen or resident of New York. Complaint

¶ 18. Plaintiff alleges the Court has personal jurisdiction pursuant to a provision of the "Asset Purchase Agreement," *id.* ¶ 19, but Mr. Rule is not a party to that agreement, and Plaintiff has not submitted a copy of that agreement to the Court.

Venue is not proper in this District because no defendant resides here, and there is no allegation that any of the events or omissions alleged occurred here or that any of the property at issue is located in this District. *See* 28 U.S.C. § 1391(b). Defendants contend that venue is proper here pursuant to the "Asset Purchase Agreement," *id.* ¶ 20, but again Mr. Rule is not a party to that agreement and Plaintiff has not submitted that agreement to the Court.

Plaintiff's motion also should be denied because all parties have not yet been served with the complaint and moving papers. If the Court finds that it has jurisdiction over these parties and this action, it should then set a schedule to allow the Defendants a reasonable time to respond to the substance of the Plaintiff's motion.

Dated: September 26, 2016

Respectfully submitted,

By: /s/ Joseph I. Marchese

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